

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT**

**Thursday, March 28, 2019
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers**

SUP #002-2019

Subject Property Information

Name of Applicant:	Burke Tyree 2819 8 th Ave S Great Falls, MT 59405
Owner:	Keith Bennett 2850 Old US Hwy 91 Cascade, MT 59421
Legal Description:	S15, T16N, R02W, Lot 1 of the Rainbow Run Subdivision
Geo-Code(s):	02-2555-15-2-02-04-0000
Parcel Number(s):	0003150000
Existing Zoning:	Agricultural (A)
Requested Action:	Approval of a Special Use Permit to allow an Outfitter/Guide Facility
Surrounding Land Uses / Zoning:	North: Residential /A South: Missouri River / State Hwy East: State Road and Agricultural / MU West: Residential / A
Current Land Use:	Farm Retail Store
Applicable Regulations:	Sections 10 and 7.2.4(20) Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application #002-2019 from Burke Tyree and Keith Bennett to allow an Outfitter/Guide Facility on the property located at 2850 Old US Highway 91, Cascade, MT 59421. Legally described as Section 15, Township 16N, Range 02W, Lot 1 of the Rainbow Run Subdivision in Cascade County, MT. The applicant is requesting that a Special Use Permit be granted as required by Section 7.2.4(20) of the Cascade County Zoning Regulations.

General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

Findings of Fact:

1. The property is in the Agricultural (A) Zoning District. The proposed use is allowed in the Agriculture District pursuant to Section 7.2.4(20) of the Cascade County Zoning Regulations. "*Agricultural District...Uses Permitted Upon Issuance of a Special Use Permit...Outfitter/Guide Facility.*"

2. Keith Bennett is the legal owner of the property.
3. The property is not known to be in violation of any Cascade County, State, or Federal regulations or laws and county taxes are current.
4. Legal Notice of the application and the public hearing was published in the Great Falls Tribune on March 17, 2019 and March 24, 2019. Legal Notice was sent to adjacent property owners on March 1, 2019. Interested Agencies were sent informative packets as well on March 1, 2019. Staff received an email from Fish Wildlife & Parks stating they had no comments on the Special Use Permit. The Montana Department of Transportation reached out via telephone to let us know that the land owner will need to obtain a new approach permit due to ownership change. There have been no other public comments.
5. A special use permit may be revoked by the Cascade County Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
6. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.
7. Access to the facility is from an existing approach off Old US Highway 91 on the eastern border of the property. The approach permit will need to be renewed through MDT due to ownership change.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb approaches:

Applicant: There is very light traffic at this location and proposed use will not bring much more traffic. This [is] just a left or right turn onto [the] property.

Staff: Marginal impacts to traffic on Old US Highway 91 are anticipated. The Montana Department of Transportation (MDT) has indicated that they have no concerns with the proposed use. However, they will require a new Driveway Approach Application and Permit to update the current owner's information and description of use. Staff recommends that an approved Driveway Approach from MDT be a condition of the permit.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: There will be minimum added usage to the current use maybe 30-40 more nights of use.

Staff: Provision of services for the site appears sufficient. The parcel of land is located within the Dearborn Volunteer Fire Departments boundaries, no comment has been received at the time of writing this report. No comments were received Northwest Energy in the solicitation of comments from interested agencies.

- c. Soil erosion, sedimentation, and stormwater run-off.

Applicant: None – No improvements.

Staff: Impacts to soil erosion and sedimentation from the proposed operation are expected to be marginal. No new buildings are being proposed so stormwater run-off should not be impacted.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: None – No improvements.

Staff: Impacts would be minimal; the applicant anticipates 30-40 more days of use in a year. The cabin has a septic system permitted for three bedrooms. Impacts to water

supply are expected to be consistent with the impact produced by the existing on-site septic system. City-County Health Department contacted our office to let us know that the existing cabin had a septic permit for a system sized for three bedrooms.

3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: This property is very well isolated from others and will not effect adjoining property.

Staff: No impacts to adjacent owners or conflicts are anticipated. Sufficient buffers currently exist between the proposed operation site and the residence to the North of the Rainbow Run Subdivision.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: This will not effect any of the items above.

Staff: No impacts to the value of adjoining properties are expected from this proposed operation.

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: This house is made for the enjoyment of the river and should be shared by others.

Staff: No conflicts are anticipated. Staff have received no comments/concerns from adjacent landowners at this time.

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*

Applicant: This usage will supply locals with extra jobs and clients that will spend money on local business in Cascade County.

Staff: The proposed use will target out of area clientele hopefully bringing them into Cascade County, and in return using other local businesses as well.

- B. *Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*

Applicant: Almost every client will purchase a fishing license which funds go back to providing funds for [the] fishing industry.

Staff: The proposed use will diversify the county's tax base through revenues generated from providing a local location people can utilize for outfitting and guiding purposes.

- C. *Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*

Applicant: This usage only adds to the variety of choices to stay along the Missouri River.

Staff: The proposed use is a primary business development that is complementary to the surrounding communities and adjoining

land uses. The cabin is located on the Missouri River giving the property onsite access. The proposed use would allow the landowner to fully utilize the assets available on the property that are provided by the location.

- D. *Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*

Applicant: This [is] the staple of tourism for tourism along the Missouri River.

Staff: The proposed use would promote tourism that would broaden Cascade County's economic base.

- E. *Foster and stimulate well-planned entrepreneurship among the county's citizenry.*

Applicant: Clients will want to come back to Cascade County and bring their business to relocate if they [are] thinking about moving.

Staff: The proposed use is not directly associated with entrepreneurship development; however, indirect benefits may occur from the proposed use.

- F. *Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.*

Applicant: This usage will help support business relationships to have potential clients move to Cascade County [when they] see the luxury that [it] can offer.

Staff: The proposed use could potentially promote a strong local business environment through providing recommendations to the tourists. The proposed use would not negatively impact the chambers of commerce, development organizations or business roundtable organizations.

- G. *Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.*

Applicant: Most clients will fly into Great Falls and shop while dining before and after trip.

Staff: The proposed use is a new business and would have the opportunity to bring in tourists to Cascade County.

H. *Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.*

Applicant: N/A – We will not be developing the region.

Staff: The proposed use will not negatively impact other economic development efforts in the region or state.

I. *Encourage the growth of the agricultural economy.*

Applicant: We are 100% behind the growth of business in agricultural economy – our proposal will not effect the agricultural economy.

Staff: The proposed use will not positively or negatively impact the growth of the agricultural economy.

J. *Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: We support use of alternative methods of energy.

Staff: The proposed use will not positively or negatively impact the growth of the economy in regard to alternate methods of energy production.

GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

A. *Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*

Applicant: We will foster the intrinsic natural beauty as the main draw for fisherman to come to this location.

Staff: There are no new structures being proposed, the use will not positively or negatively impact the natural beauty of grazing areas, farmlands, or forests.

B. *Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*

Applicant: We have maintenance and clean up weekly to make sure each visitor has the same experience.

Staff: The applicant is not proposing any new structures and in return will not negative or positive impact. The proposed use relies on the abundant wildlife and good fisheries.

- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

Applicant: We have three other lots that will have covenants that promote proper design and open space.

Staff: The applicant is not purposing any new structures which in return preserves open space.

- D. *Assure clean air, clean water, a healthful environment and good community appearance.*

Applicant: We believe that clean air and water are the key elements to our client base. We are a low impact on both water and air quality.

Staff: The proposed use will not negatively or positively impact clean air, water, or a healthful environment. Having weekly maintenance and upkeep will help keep a good community appearance.

- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*

Applicant: We are a low impact to the natural resources and would support low impact on development of natural resources.

Staff: The proposed use will not negatively or positively impact the development of natural resources.

- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

Applicant: We believe all changes that improve the land and environment are the good of all.

Staff: The site of the proposed use and structure is not associated with Superfund or the Brownfields programs.

GOAL 3: Maintain Agricultural economy

A. *Protect the most productive soil types.*

Applicant: We will maintain and improve the land and soil that our property is associated.

Staff: Minimal impacts to productive soils are anticipated as the structure is pre-existing.

B. *Continue to protect soils against erosion.*

Applicant: We have and continue to keep the integrity of the banks as this [is] critical to maintaining fish habitat and proper water flow of [the] river.

Staff: Minimal impacts to soil are anticipated.

C. *Protect the floodplain from non-agricultural development.*

Applicant: We understand the floodplain is very critical to keep intact as we are low impact on the area.

Staff: The site of the proposed use is in the floodplain, however, the buildings involved are pre-existing. No further impacts are proposed.

D. *Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.*

Applicant: We support the local product and will highly recommend our clients to use, spend, and enjoy all of our local products.

Staff: The proposed use will not negatively or positively impact the development of value-added agricultural industry.

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

A. *Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.*

Applicant: We understand and desire the current mission status.

Staff: Staff does not believe that this application will have any impact on the presence or mission of Malmstrom AFB in Cascade County. The nearest launch facility is approximately thirteen (13) miles away.

B. Promote the location of additional military missions in Cascade County.

Applicant: *We are in agreement that more military missions are critical to local impact on our economy.*

Staff: No expected impact.

C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

Applicant: *We don't have a lot of history in this field and do not have the data for input on this subject.*

Staff: No expected impact.

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant: *We understand the Joint Land Use Study for resolving conflicts.*

Staff: No expected impact.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

Applicant: *The independent lifestyle is a core belief for us and would encourage to keep gov't limited intervention.*

Staff: The proposed use will provide employment for 2-6 employees and thus facilitate independence for those citizens.

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

Applicant: We are in the tourism industry and the more the clients can enjoy Cascade County the better the chances they will return and contribute to our economy.

Staff: The proposed use will preserve county cultural heritage by allowing outfitters and guides to teach tourists how to fish on the Missouri River.

- C. *Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.*

Applicant: We support fire prevention because fires are very harmful to fishing habitats. We stress fire control to all of our clients.

Staff: The property would be serviced by the Dearborn Volunteer Fire Department. The proposed use will not negatively or positively impact fire hazards in the area.

- D. *Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.*

Applicant: This is a part of our core business we are a low impact recreational business that contributes to the local economy at a high level.

Staff: The proposed use incorporates both education and recreational opportunities.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Applicant: We have been in talks w/ city and county about the ever changing zoning and growth policies.

Staff: The proposal will not have a negative impact on the municipal or joint land use plans and is likely to have a positive effect on the local economy.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Motions:

The following motions are provided for the board's consideration:

Alternative 1: Move for the Special Use Permit to allow an Outfitter/Guide Facility on Parcel 0003150000, Geocode 02-2555-15-2-02-04-0000 be **denied** (ZBOA member proposing denial must delineate legal reason that the application be denied); or

Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit for an Outfitter/Guide Facility on Parcel 0003150000, Geocode 02-2555-15-2-02-04-0000 subject to the following conditions:

1. The applicant obtains approval from the City-County Health Department for the change of use. This includes any necessary steps taken to be sure the septic system sized for three (3) bedrooms is sufficient to hold the six (6) to ten (10) tourists expected at one time.
2. Applicant rewrite Certificate of Subdivision Approval (COSA) to obtain compliance with Department of Environmental Quality.
3. The facility must contract with an outfitter and provide a copy of the contract to Cascade County Planning for the file. Any changes with the outfitter must also be given to the Planning Division.
4. Reasonable access must be provided to the area and maintained for all emergency services including ambulance, fire, and police vehicles.
5. The applicant obtains an Approach Permit from the Montana Department of Transportation.
6. A permit must be obtained for any sign that is placed on the premise, to ensure it meets the requirements of Cascade County Zoning Regulations. A phrase that the facility is "private" or "not open to general public" must be included on the sign or at the property entrance.
7. The applicant obtains any other county, state, or federal permits required by the respective agency for the legal operation of the proposed use.
8. The applicant adheres to all relevant building code requirements established by the Department of Labor and Industry.

Attachments:

- Attachment A: Special Use Permit Application; Location/Conformance Permit Application; Vicinity Map; Email from FWP.

cc: Burke Tyree
Keith Bennett